

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 10-cv-568
)	
v.)	
)	COMPLAINT
MENARD, INC.,)	(Jury Trial Demand)
)	
Defendant.)	
)	
)	
)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national origin (Moroccan) and to provide appropriate relief to Otman Elaroussi, who was adversely affected by such practices. As alleged with greater particularity in paragraph 7 below, Mr. Elaroussi was adversely affected by such practices when Menard, Inc. (“Menard”) failed and refused to hire him to an entry-level position at its store in Platteville, Wisconsin based on his national origin.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the Western District of Wisconsin.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Menard, Inc. (“Menard” or “defendant”) is a retail seller of home improvement and lumber products, doing business throughout the Midwest, including Wisconsin, and in particular in the City of Platteville, Wisconsin, and has continuously had at least 15 employees.

5. At all relevant times, Menard has been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e (b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Otman Elaroussi filed a charge with the Commission alleging violations of Title VII by Menard. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. From at least January 2010, Menard has engaged in unlawful employment practices at its Platteville, Wisconsin store in violation of Section 703(a) of Title VII, 42 U.S.C. and § 2000e-2(a). Such practices include, but are not limited to, failing and refusing to hire Elaroussi to an entry-level position at its store in Platteville, Wisconsin based on his national origin, Moroccan. Specifically, Elaroussi applied for a position on or about January 31, 2010. Menard rejected his application and continued to recruit and hire individuals with comparable or lesser qualifications.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Elaroussi of equal employment opportunities and otherwise adversely affect his status as an employee because of his national origin.

9. The unlawful employment practices complained of in paragraph 7 were and are intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Elaroussi.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant Menard, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in discrimination based upon national origin.

B. Order defendant Menard to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees and applicants, and which eradicate the effects of its past and present unlawful employment practices.

C. Order defendant Menard to make whole Elaroussi, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place instatement.

D. Order defendant Menard to make whole Elaroussi, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, in amounts to be determined at trial.

E. Order defendant Menard to make whole Elaroussi by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in

paragraph 7 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order defendant Menard to pay Elaroussi punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

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James L. Lee
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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
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Dated: September 29, 2010

s/
John C. Hendrickson
Regional Attorney

Dated: September 29, 2010

s/
Jean P. Kamp
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s/Brian C. Tyndall
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